

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**BRIAN MCINTOSH and  
JAMES MCINTOSH ,**

**Plaintiffs,**

**v.**

**BRAD CRIST; GARY PAUL  
EISENHUTH; WILLIAM SLISZ; DOUG  
KOMAR; SCOTT HAYMAKER;  
OFFICER STAFO/SAFKO; OFFICER  
BEBLAR; THE CITY OF JOHNSTOWN;  
THE MUNICIPALITY OF YODER/WEST  
HILLS; THE BOROUGH OF DALE;  
and JOHN DOE,**

**Defendants.**

**CIVIL ACTION NO. 3:13-103**

**JUDGE KIM R. GIBSON**

**ORDER**

Plaintiffs bring this civil rights case under 42 U.S.C. § 1983 and Pennsylvania common law, alleging, among other things, false arrest and excessive force in violation of the United States Constitution. Currently before the Court are Defendants' motions to dismiss the complaint (ECF Nos. 11 and 14), pursuant to Fed. R. Civ. P. 12(b)(6). After carefully reviewing the complaint, the Court finds that the complaint must be dismissed with leave to amend because Plaintiffs have not followed the applicable rules of civil procedure.

Under Federal Rule of Civil Procedure 8(a)(2), a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Further, Rule 8(d)(1) requires that each allegation "be simple, concise, and direct." Indeed, "[t]he purpose of Rule 8 is to prevent complaints that are ambiguous or vague enough to

impede the defendant's ability to form a responsive pleading." *Young v. Centerville Clinic, Inc.*, No. 09-cv-325, 2009 WL 2448003, at \* 2 (W.D. Pa. Aug. 10, 2009).

Rule 10(b) similarly provides that a plaintiff must state his or her claims "in numbered paragraphs, each limited as far as practicable to a single set of circumstances" and that "each claim founded on a separate transaction or occurrence . . . must be stated in a separate count or defense." The purpose of Rule 10 is to "create clarity in pleadings, which allows a defendant and the Court to determine whether there are sufficient facts to support a claim entitling a plaintiff to relief." *Young*, 2009 WL 2448003, at \* 2.

Courts have consistently found that, "if more than one claim is alleged in the complaint, a separation of the claims is required where it will facilitate a clear presentation of the matters set forth." *De Leys v. Keta Gas & Oil Co.*, 18 F.R.D. 353, 354 (W.D. Pa. 1955) (granting a motion to dismiss and directing that the complaint be amended to state each claim in separate counts); *Wahl v. Wecht*, No. 10-cv-0010, 2010 WL 3811522 (W.D. Pa. Sept. 21, 2010) (finding that dismissal is proper where a plaintiff fails to comply with Rule 10); *Boyer v. LeHigh Valley Hosp. Ctr., Inc.*, No. 89-cv-7315, 1990 WL 94038, \*7 (E.D. Pa. July 2, 1990).

In this case, Plaintiffs have not presented their claims in separately numbered paragraphs and counts. Although the complaint contains numbered paragraphs, these paragraphs conflate the facts and legal claims. Moreover, the facts and claims are contained in lengthy, disorganized paragraphs that provide little structure to the complaint. For instance, paragraph 1 of the complaint spans three pages and appears to

contain at least 14 claims interjected among disjointed facts and legal conclusions. The complaint also fails to explain which claims are asserted against each Defendant.

Simply put, the complaint must be amended because it fails, as written, to provide the Defendants and the Court with a clear understanding of the claims asserted or the facts supporting each of these claims. Plaintiffs are represented by experienced counsel who should be familiar with the applicable pleading requirements. Accordingly, to better serve the interests of justice, Plaintiffs are directed to file an amended complaint in accordance with the rules of procedure set forth above.

**AND NOW**, this 25th day of March 2014, for the reasons stated above, **IT IS HEREBY ORDERED** that Defendants' motions to dismiss (ECF Nos. 11 and 14) are **GRANTED** and that Plaintiffs' complaint is dismissed; and

**IT IS FURTHER ORDERED** that Plaintiffs shall have **thirty (30) days** from the date of this Order to file an amended complaint that meets the standards set forth in Rules 8 and 10(b) of the Federal Rules of Civil Procedure. If Plaintiffs file an amended complaint, they must state their claims in separately numbered paragraphs and identify which claims are asserted against each Defendant.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

**KIM R. GIBSON**  
**UNITED STATES DISTRICT JUDGE**